

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED

NOV 30 2018

Clerk, U.S. District Court
Texas Eastern

WAYNE A. POWE AND §
REGINA Y. POWE §
Plaintiffs, §
§
V. §
§
DEUTSCHE BANK NATIONAL TRUST §
COMPANY AS TRUSTEE FOR §
RESIDENTIAL ASSET §
SECURITIZATION TRUST SERIES §
2004-A7 MORTAGE PASS-THROUGH §
CERTIFICATES 2004-G. §
§
Defendant. §

CIVIL ACTION NO. 4:15-CV-00661-
ALM-CAN

**PLAINTIFFS' UNOPPOSED EMERGENCY MOTION TO MODIFY
TERMS OF SUPERSEDEAS BOND**

COME NOW Plaintiffs Wayne A. Powe and Regina Y. Powe ("Plaintiffs" and file this Unopposed Emergency Motion to Modify Terms of Supersedeas Bond, and in support thereof would show the Court as follows:

1. On November 29, 2018, this Court entered an order suspending enforcement of the judgment and setting the supersedeas bond at \$87,106.00, requiring the bond to be posted no later than December 3, 2018. The amount of the bond was calculated based on the reasonable monthly rental value of the subject property, which was \$2,800.00. Defendant has posted the subject property for foreclosure sale on December 4, 2018 at 10:00 a.m.
2. Plaintiff Regina Y. Powe after multiple and exhausting inquiries with several bonding companies has learned that unlike other bonds, bonding companies require that a supersedeas bond must be fully collateralized in cash at the time of issuance. At this time, the Plaintiffs do

not have the complete cash reserves of \$87,106.00 to collateralize the supersedeas bond. For this reason, Plaintiffs have not been able to secure a supersedeas bond in the amount of \$87,106.00.

3. Plaintiffs request that the Court consider an alternative method to satisfy the requirements of the supersedeas bond. The Plaintiffs propose that they immediately post a cash bond with the Court in the amount of \$25,000.00. Thereafter, Plaintiffs propose that they deposit a monthly payment of \$2,800.00 into the registry of the Court starting on January 1, 2019, and thereafter on the first of every month while their appeal is pending. This would fully protect Deutsche Bank from any damages that they might incur as a result of the appeal, which is the purpose of a supersedeas bond..

4. If the monthly payment of \$2,800.00 is not made on or before the 15th of any month, commencing January 1, 2019, the Defendant would have the right to move the Court to vacate the order suspending enforcement of the judgment.

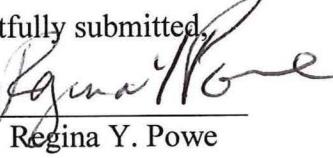
5. This would both protect Defendant and preserve Plaintiff's appeal rights. If the Defendants are allowed to foreclose on the property, Plaintiff's appeal becomes moot.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Court grant this motion and enter an order modifying the terms of the supersdeas bond as follows:

- (1) An order that Plaintiffs immediately post a cash bond with the Court in the amount of \$25,000.00;
- (2) An order that Plaintiffs deposit \$2,800.00 each month into the registry of the Court starting on January 1, 2019 during the pendency of the appeal of the judgment in this case; and
- (3) An order that if a monthly payment is not deposited by the 15th of any month, the Defendant may move the Court for an order to vacate the order suspending enforcement of the judgment; and
- (4) grant Plaintiffs such other and further relief to which they may be justly entitled.

Respectfully submitted,

By:


Regina Y. Powe

By:

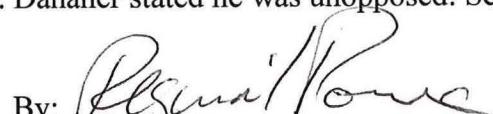

Wayne A. Powe

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Email: reginapoweedds@yahoo.com

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CERTIFICATE OF CONFERENCE

On November 30, 2018, I had a phone conversation with Defendant's counsel Philip W. Danaher about the content of the foregoing motion. Mr. Danaher stated he was unopposed. See the attached email.

By: 
Regina Y. Powe

CERTIFICATE OF SERVICE

I certify that on the 30th day of November, 2018, I served the foregoing instrument via regular mail to the following:

Mackie Wolf Zientz and Mann, P.C.
Mark D. Cronenwett
Philip W. Danaher
14160 North Dallas Parkway. Suite 900
Dallas, TX 75254
214-635-2650
214-635-2686 (Fax)

By: 
Regina Y. Powe